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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

LOUIS NOGALI,) Case No. CV11-02426 E
Plaintiff,)
vs.)
BAY AREA CREDIT SERVICE,)
LLC,)
Defendant.)

1. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.* (hereinafter "RFDCPA"), both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k (d).

III. PARTIES

3. Plaintiff, Louis Nogali (“Plaintiff”), is a natural person residing in Los Angeles county in the state of California, and is a “consumer” as defined by the FDCPA, 15 U.S.C. §1692a(3) and is a “debtor” as defined by Cal Civ Code §1788.2(h).

4. At all relevant times herein, Defendant, Bay Area Credit Service, LLC, (“Defendant”) was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a “debt,” as defined by 15 U.S.C. §1692a(5), and a “consumer debt,” as defined by Cal Civ Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c).

IV. FACTUAL ALLEGATIONS

5. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.

1 6. On or about December 6, 2010, Defendant initially contacted
2 Plaintiff via letter in connection with an attempt to collect an alleged debt from
3 Plaintiff.

4 7. On or about December 22, 2010, Plaintiff sent Defendant a letter
5 requesting that Defendant cease and desist from contacting Plaintiff prior to
6 providing Plaintiff with validation of the alleged debt.

7 8. Despite receiving Plaintiff's cease and desist letter, Defendant
8 continued to contact Plaintiff prior to providing validation of the debt, including
9 but not limited to, a collection letter dated January 10, 2011.

10 9. In the January 10, 2011 collection letter, Defendant threatened that
11 failure to pay the alleged debt would result in a negative reporting of the alleged
12 debt on Plaintiff's credit report.

13 10. Defendant's conduct violated the FDCPA and the RFDCPA in
14 multiple ways, including but not limited to:

- 15 a) Communicating with Plaintiff after having received a
16 letter from Plaintiff with a request to cease and desist all
17 collection contacts or a statement that Plaintiff refuses
18 to pay the debt (§1692c(c));
19 b) After having received a written communication from
20 Plaintiff disputing the debt, continuing to contact
21 Plaintiff without having first having provided validation
22 of the debt (§1692g(b)); and
23 c) Communicating or threatening to communicate credit
24 information which is known or which should be known
25 to be false (§1692e(8)).

11. As a result of the above violations of the FDCPA and RFDCPA Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

**COUNT I: VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT**

12. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
 - B. Actual damages;
 - C. Statutory damages;
 - D. Costs and reasonable attorney's fees; and,
 - E. For such other and further relief as may be just and proper.

**COUNT II: VIOLATION OF ROSENTHAL
FAIR DEBT COLLECTION PRACTICES ACT**

13. Plaintiff reincorporates by reference all of the preceding paragraphs.

14. To the extent that Defendant's actions, counted above, violated the
CPA, those actions were done knowingly and willfully.

15. Further, §1788.17 of the RFDCPA mandates that every debt collector collecting or attempting to collect a consumer debt shall comply with the provisions of Sections 1692b to 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k of, Title 15 of the United States Code statutory regulations contained within the FDCPA, *15 U.S.C. §1692d, and §1692d(5)*.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the RFDCPA;
 - B. Actual damages;
 - C. Statutory damages for willful and negligent violations;
 - D. Costs and reasonable attorney's fees,
 - E. For such other and further relief as may be just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 18th day of March, 2011.

By:

Todd M. Friedman (216752)
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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE TO COUNSEL
(MAGISTRATE JUDGE CIVIL CONSENT PILOT PROJECT)

The court has directed that the following rules be specifically called to your attention:

- I. Notice of Right to Consent to Disposition of a Civil Case by a United States Magistrate Judge [28 U.S.C. § 636(c) and General Order 08-09].
 - II. Continuing Obligation to Report Related Cases (Local Rule 83-1.3.3)
 - III. Service of Papers and Process (Local Rule 4)
- I. NOTICE OF RIGHT TO CONSENT TO DISPOSITION OF A CIVIL CASE BY A UNITED STATES MAGISTRATE**

Pursuant to Local Rule 73-2, the initiating party must serve this notice and consent form CV-11C on each party at the time of service of the summons and complaint or other initial pleading.

This case has been randomly assigned to Magistrate Judge EICK under the Civil Consent Pilot Project in accordance with General Order 08-09. The case number on all documents filed with the court should read as follows: CV-11-02426

The parties are advised that they may consent to have the assigned magistrate judge conduct all further proceedings in the case, including trial and final entry of judgment pursuant to 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73. The parties may consent to proceed only before the assigned magistrate judge.

The parties are further advised that they are free to withhold consent without adverse substantive consequences. If the parties agree to the exercise of jurisdiction by the magistrate judge, the parties shall jointly or separately file a statement of consent setting forth such election. For cases originally filed in district court and initially assigned only to a magistrate judge, the statement of consent shall be filed within 30 days after service of the summons and complaint upon that defendant, and within 30 days by plaintiff after service upon the first-served defendant.

For cases removed from state court and initially assigned only to a magistrate judge, a joint or separate statements of consent shall be filed by plaintiff and all defendants upon whom service has been effected, within 11 days after the notice of removal is filed.

Since magistrate judges do not handle felony criminal trials, civil trial dates are not at risk of being preempted by a felony criminal trial, which normally has priority. Further, in some cases, the magistrate judge may be able to assign an earlier trial date than a district judge. There may be other advantages or disadvantages which you will want to consider.

Any appeal from a judgment of the magistrate judge shall be taken to the United States Court of Appeals in the same manner as an appeal from any other judgment of the district court in accordance with 28 U.S.C. §636(c)(3).

If a party has not consented to the exercise of jurisdiction by the magistrate judge within the time

NAME, ADDRESS & TELEPHONE NUMBER OF ATTORNEY(S) FOR, OR, PLAINTIFF
OR DEFENDANT IF PLAINTIFF OR DEFENDANT IS PRO PER

ATTORNEYS FOR:

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

| | |
|---|---|
| LOUIS NOGALI Plaintiff(s), V. BAY AREA CREDIT SERVICE, LLC Defendant(s) | CASE NUMBER CV11- 2426 E STATEMENT OF CONSENT TO PROCEED BEFORE A UNITED STASTES MAGISTRATE JUDGE (For use in Magistrate Judge Civil Consent Pilot Project Cases only) |
|---|---|

**THIS FORM SHALL BE USED ONLY FOR CASES IN WHICH A MAGISTRATE JUDGE IS
INITIALLY ASSIGNED PURSUANT TO LOCAL RULE 73-2**

All parties to the above-captioned civil matter are to check one of the two following options and file this document with the Clerk's Office:

- In accordance with the provisions of 28 U.S.C. § 636(C) and F.R.Civ.P.73(b), the party or parties listed below to the above-captioned civil matter hereby waive their right to proceed before a District Judge and Consent to have the assigned Magistrate Judge Charles Eick conduct all further proceedings in the case, including trial and entry of final judgment.

Any appeal from a judgment of the assigned Magistrate Judge shall be taken to the United States Court of Appeals in the same manner as an appeal from any other judgment of the District Court in accordance with 28 U.S.C. § 636(c)(3).

- The party or parties listed below to the above-captioned civil matter Do Not Consent to proceed before the assigned Magistrate Judge Charles Eick.

The party or parties listed below acknowledge that they are free to withhold consent without adverse substantive consequences.

Name of Counsel (OR Party if Pro Per)

Signature and date

Counsel for (Name Parties)

| | | |
|-------|-------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

- Check this box if all parties have consented to proceed before the assigned Magistrate Judge.

NOTICE TO COUNSEL FROM CLERK

All parties having consented to proceed before the assigned magistrate judge, this case will remain assigned to United States Magistrate Judge Charles Eick for all further proceedings.

Todd M. Friedman, Esq.
 Law Offices of Todd M. Friedman, P.C.
 369 S. Doheny Dr., #415
 Beverly Hills, CA 90211
 Phone: 877-206-4741
 Fax: 866-633-0228

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LOUIS NOGALI

CASE NUMBER

PLAINTIFF(S)

v.

BAY AREA CREDIT SERVICE, LLC

CV11-02426 E

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S): BAY AREA CREDIT SERVICE, LLC

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Todd M. Friedman, whose address is Law Offices of Todd M. Friedman, 369 S. Doheny Dr., #415, Beverly Hills, CA 90211. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

MAR 23 2011

Dated: _____

By: _____

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3).]

ccOPY

| | | | | | | |
|--|--|---|---|--|---|---|
| I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> LOUIS NOGALI) | | DEFENDANTS BAY AREA CREDIT SERVICE, LLC | | | | |
| (b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Todd M. Friedman, Esq. Law Offices of Todd M. Friedman, P.C. 369 S. Doheny Dr., #415, Beverly Hills, CA 90211 | | Attorneys (If Known) | | | | |
| II. BASIS OF JURISDICTION (Place an X in one box only.) | | III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) | | | | |
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) | Citizen of This State | PTF DEF <input type="checkbox"/> 1 <input type="checkbox"/> 1 Incorporated or Principal Place PTF DEF <input type="checkbox"/> 4 <input type="checkbox"/> 4 of Business in this State | | | |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) | Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place PTF DEF <input type="checkbox"/> 5 <input type="checkbox"/> 5 of Business in Another State | | | |
| | | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation PTF DEF <input type="checkbox"/> 6 <input type="checkbox"/> 6 | | | |
| IV. ORIGIN (Place an X in one box only.) | | | | | | |
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify): | <input type="checkbox"/> 6 Multi-District Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge |
| V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.) | | | | | | |
| CLASS ACTION under F.R.C.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | | | MONEY DEMANDED IN COMPLAINT: \$ _____ | | |
| VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 15 USC 1692 Violation of the Fair Debt Collection Practices Act | | | | | | |
| VII. NATURE OF SUIT (Place an X in one box only.) | | | | | | |
| OTHER STATUTES | CONTRACT | | TORTS | | PRISONER PETITIONS | |
| | <input type="checkbox"/> 400 State Reapportionment | <input type="checkbox"/> 110 Insurance | <input type="checkbox"/> PERSONAL INJURY | <input type="checkbox"/> PERSONAL PROPERTY | <input type="checkbox"/> 510 Motions to Vacate Sentence | LABOR |
| <input type="checkbox"/> 410 Antitrust | <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 370 Other Fraud | <input type="checkbox"/> 520 Habeas Corpus | <input type="checkbox"/> 710 Fair Labor Standards Act | |
| <input type="checkbox"/> 430 Banks and Banking | <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 371 Truth in Lending | <input type="checkbox"/> 530 General | <input type="checkbox"/> 720 Labor/Mgmt. Relations | |
| <input type="checkbox"/> 450 Commerce/ICC Rates/etc. | <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 320 Assault, Libel & Slander | <input type="checkbox"/> 380 Other Personal Property Damage | <input type="checkbox"/> 535 Death Penalty | <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act | |
| <input type="checkbox"/> 460 Deportation | <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 330 Fed. Employers' Liability | <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 540 Mandamus/ Other | <input type="checkbox"/> 740 Railway Labor Act | |
| <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations | <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 340 Marine Product Liability | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 550 Civil Rights | <input type="checkbox"/> 790 Other Labor Litigation | |
| <input type="checkbox"/> 480 Consumer Credit | <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) | <input type="checkbox"/> 345 Motor Vehicle | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 555 Prison Condition | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | |
| <input type="checkbox"/> 490 Cable/Sat TV | <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 350 Motor Vehicle Product Liability | <input type="checkbox"/> 441 Voting | PROPERTY RIGHTS | PROPERTY RIGHTS | |
| <input type="checkbox"/> 810 Selective Service | <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> 442 Employment | <input type="checkbox"/> 610 Agriculture | <input type="checkbox"/> 820 Copyrights | |
| <input type="checkbox"/> 850 Securities/Commodities/ Exchange | <input type="checkbox"/> 161 Other Contract | <input type="checkbox"/> 362 Personal Injury-Med Malpractice | <input type="checkbox"/> 443 Housing/Accommodations | <input type="checkbox"/> 620 Other Food & Drug | <input type="checkbox"/> 830 Patent | |
| <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 | <input type="checkbox"/> 162 Contract Product Liability | <input type="checkbox"/> 365 Personal Injury-Product Liability | <input type="checkbox"/> 444 Welfare | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 840 Trademark | |
| <input checked="" type="checkbox"/> 890 Other Statutory Actions | <input type="checkbox"/> 163 Franchise | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 445 American with Disabilities - Employment | <input type="checkbox"/> 630 Liquor Laws | SOCIAL SECURITY | |
| <input type="checkbox"/> 891 Agricultural Act | <input type="checkbox"/> 210 Land Condemnation | <input type="checkbox"/> IMMIGRATION | <input type="checkbox"/> 446 American with Disabilities - Other | <input type="checkbox"/> 640 R.R. & Truck | <input type="checkbox"/> 861 HIA (1395ff) | |
| <input type="checkbox"/> 892 Economic Stabilization Act | <input type="checkbox"/> 220 Foreclosure | <input type="checkbox"/> 462 Naturalization Application | <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 650 Airline Regs | <input type="checkbox"/> 862 Black Lung (923) | |
| <input type="checkbox"/> 893 Environmental Matters | <input type="checkbox"/> 230 Rent Lease & Ejectment | <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee | | <input type="checkbox"/> 660 Occupational Safety /Health | <input type="checkbox"/> 863 DIWC/DIWW (405(g)) | |
| <input type="checkbox"/> 894 Energy Allocation Act | <input type="checkbox"/> 240 Torts to Land | <input type="checkbox"/> 465 Other Immigration Actions | | <input type="checkbox"/> 690 Other | <input type="checkbox"/> 864 SSID Title XVI | |
| <input type="checkbox"/> 895 Freedom of Info. Act | <input type="checkbox"/> 245 Tort Product Liability | | | | <input type="checkbox"/> 865 RSI (405(g)) | |
| <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice | <input type="checkbox"/> 290 All Other Real Property | | | | FEDERAL TAX SUITS | |
| <input type="checkbox"/> 950 Constitutionality of State Statutes | | | | | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | |
| | | | | | <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 | |

CV11-02426

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

| | |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles | |

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

| | |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| | Contra Costa |

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

| | |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles | |

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____ Date March 18, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

| Nature of Suit Code | Abbreviation | Substantive Statement of Cause of Action |
|---------------------|--------------|--|
| 861 | HIA | All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b)) |
| 862 | BL | All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923) |
| 863 | DIWC | All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g)) |
| 863 | DIWW | All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g)) |
| 864 | SSID | All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended. |
| 865 | RSI | All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g)) |